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GOLDEN GATE BRIDGE, HIGHWAY AND
TRANSPORTATION DISTRICT

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

HOLLYNN DELIL ,

Plaintiff,

v.

GOLDEN GATE BRIDGE, HIGHWAY
AND TRANSPORTATION DISTRICT;
AND DOES 1 THROUGH 20, Inclusive,,

Defendants.

No. C08-01105

**DEFENDANT GOLDEN GATE BRIDGE,
HIGHWAY, AND TRANSPORTATION
DISTRICT'S ANSWER TO PLAINTIFF'S
COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

Action Filed: February 25, 2008

Defendant Golden Gate Bridge, Highway and Transportation District
("Defendant"), by and through its attorneys, hereby answers Plaintiff Hollynn Delil's
("Plaintiff") Complaint and state as follows:

INTRODUCTION

1. In answering Paragraph 1 of Plaintiff's Complaint, Defendant lacks
information and belief sufficient to answer the allegations in Paragraph 1, and basing its
denial on this ground, denies each and every allegation in Paragraph 1 of the Complaint.

2. In answering Paragraph 2 of Plaintiff's Complaint, Defendant denies each
and every allegation contained in Paragraph 2 of the Complaint.

JURISDICTION AND VENUE

3. In answering Paragraph 3 of Plaintiff's Complaint, Defendant admits that this Court has subject matter jurisdiction pursuant to 28 U.S.C. Sections 1331 and 1336. Except as so expressly admitted, Defendant denies each and every allegation contained in Paragraph 3 of the Complaint.

4. In answering Paragraph 4 of Plaintiff's Complaint, Defendant admits that venue is proper in this Court pursuant to 28 U.S.C. Section 1391(b). Except as so expressly admitted, Defendant denies each and every allegation contained in Paragraph 4 of the Complaint.

5. In answering Paragraph 5 of Plaintiff's Complaint, Defendant admits that the "case should be assigned to the San Francisco intra district." Except as so expressly admitted, Defendant denies each and every allegation contained in Paragraph 5 of the Complaint.

PARTIES AND GOVERNMENT CLAIM

6. In answering Paragraph 6 of Plaintiff's Complaint, Defendant lacks information and belief sufficient to answer the allegations in Paragraph 6, and basing its denial on this ground, denies each and every allegation in Paragraph 6 of the Complaint.

7. In answering Paragraph 7 of Plaintiff's Complaint, Defendant admits that it is a public entity pursuant to the Bridge and Highway District Act, California Streets and Highways Code Section 27000, *et seq.* Defendant further admits that it has buildings, structures, facilities, and vessels with public areas. Except as so expressly admitted, Defendant denies each and every allegation contained in Paragraph 7 of the Complaint.

Defendant does not stipulate to the naming of Doe Defendants.

8. In answering Paragraph 8 of Plaintiff's Complaint, Defendant neither admits nor denies the allegations contained in Paragraph 8 on the basis that it is vague, ambiguous, and unintelligible. To the extent that an answer is required, Defendant denies each and every allegation contained in Paragraph 8 of the Complaint.

Defendant does not stipulate to the naming of Doe Defendants.

1 9. In answering Paragraph 9 of Plaintiff's Complaint, Defendant admits that
2 Plaintiff filed claims on January 28, 2008, and February 5, 2008. Defendant further
3 admits that it rejected Plaintiff's claims. Except as so expressly admitted, Defendant
4 denies each and every allegation contained in Paragraph 9 of the Complaint.

5 **FACTUAL BASES FOR COMPLAINT**

6 10. In answering Paragraph 10 of Plaintiff's Complaint, Defendant denies each
7 and every allegation contained in Paragraph 10 of the Complaint.

8 A. In answering Paragraph 10A of Plaintiff's Complaint, Defendant
9 lacks information and belief sufficient to answer the allegations in Paragraph 10A, and
10 basing its denial on this ground, denies each and every allegation in Paragraph 10A of
11 the Complaint.

12 B. In answering Paragraph 10B of Plaintiff's Complaint, Defendant
13 denies each and every allegation contained in Paragraph 10B of the Complaint.

14 C. In answering Paragraph 10C of Plaintiff's Complaint, Defendant
15 denies each and every allegation contained in Paragraph 10C of the Complaint.

16 D. In answering Paragraph 10D of Plaintiff's Complaint, Defendant
17 denies each and every allegation contained in Paragraph 10D of the Complaint.

18 E. In answering Paragraph 10E of Plaintiff's Complaint, Defendant
19 denies each and every allegation contained in Paragraph 10E of the Complaint.

20 F. In answering Paragraph 10F of Plaintiff's Complaint, Defendant
21 denies each and every allegation contained in Paragraph 10F of the Complaint.

22 G. In answering Paragraph 10G of Plaintiff's Complaint, Defendant
23 denies each and every allegation contained in Paragraph 10G of the Complaint.

24 H. In answering Paragraph 10H of Plaintiff's Complaint, Defendant
25 denies each and every allegation contained in Paragraph 10H of the Complaint.

26 11. In answering Paragraph 11 of Plaintiff's Complaint, Defendant denies each
27 and every allegation contained in paragraph 11 of the Complaint.
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**FIRST CAUSE OF ACTION:
DISCRIMINATION IN VIOLATION OF TITLE II
OF THE AMERICANS WITH DISABILITY ACT OF 1990**

12. In answering Paragraph 12 of Plaintiff's Complaint, Defendant herein incorporates its answers to Paragraphs 1 through 11 of the Complaint.

13. In answering Paragraph 13 of Plaintiff's Complaint, Defendant neither admits nor denies the allegations contained in Paragraph 13 on the basis that such allegations are legal conclusions to which no answer is required. To the extent that an answer is required, Defendant admits the allegations contained in this paragraph only to the extent the language accurately sets forth particular statutes, regulations, administrative rules, and case authorities in their full and proper context. To the extent that a further answer is required, Defendant admits that it is a public entity pursuant to the Bridge and Highway District Act, California Streets and Highways Code Section 27000, *et seq.* Except as so expressly admitted, Defendant denies each and every allegation contained in Paragraph 13 of the Complaint.

Defendant does not stipulate to the naming of Doe Defendants.

14. In answering Paragraph 14 of Plaintiff's Complaint, Defendant neither admits nor denies the allegations contained in Paragraph 14 on the basis that such allegations are legal conclusions to which no answer is required. To the extent that an answer is required, Defendant admits the allegations contained in this paragraph only to the extent the language accurately quotes particular statutes, regulations, administrative rules, and case authorities in their full and proper context. Except as so expressly admitted, Defendant denies each and every allegation contained in Paragraph 14 of the Complaint.

Defendant does not stipulate to the naming of Doe Defendants.

15. In answering Paragraph 15 of Plaintiff's Complaint, Defendant denies each and every allegation contained in Paragraph 15 of the Complaint.

16. In answering Paragraph 16 of Plaintiff's Complaint, Defendant denies each and every allegation contained in Paragraph 16 of the Complaint.

1 17. In answering Paragraph 17 of Plaintiff's Complaint, Defendant admits that
2 Plaintiff seeks the remedies described in Paragraph 17 of Plaintiff's Complaint. Except
3 as so expressly admitted, Defendant denies each and every allegation contained in
4 Paragraph 17 of the Complaint and denies that Plaintiff has suffered any damages or is
5 entitled to any remedies or relief whatsoever.

6 18. In answering Paragraph 18 of Plaintiff's Complaint, Defendant admits that
7 Plaintiff seeks the remedies described in Paragraph 18 of Plaintiff's Complaint. Except
8 as so expressly admitted, Defendant denies each and every allegation contained in
9 Paragraph 18 of the Complaint and denies that Plaintiff has suffered any damages or is
10 entitled to any remedies or relief whatsoever.

11 **SECOND CAUSE OF ACTION:**
12 **VIOLATION OF §504 OF THE REHABILITATION ACTION OF 1973**

13 19. In answering Paragraph 19 of Plaintiff's Complaint, Defendant herein
14 incorporates its answers to Paragraphs 1 through 18 of the Complaint.

15 20. In answering Paragraph 20 of Plaintiff's Complaint, Defendant admits that it
16 is a public entity pursuant to the Bridge and Highway District Act, California Streets and
17 Highways Code Section 27000, *et seq.*, and that it operates ferry service between San
18 Francisco and Marin counties. Defendant further admits that it receives state, federal,
19 and other funding for various capital improvement projects and operations. Except as so
20 expressly admitted, Defendant denies each and every allegation contained in Paragraph
21 20 of the Complaint.

22 21. In answering Paragraph 21 of Plaintiff's Complaint, Defendant denies each
23 and every allegation contained in Paragraph 21 of the Complaint.

24 22. In answering Paragraph 22 of Plaintiff's Complaint, Defendant denies each
25 and every allegation contained in Paragraph 22 of the Complaint.

26 23. In answering Paragraph 23 of Plaintiff's Complaint, Defendant admits that
27 Plaintiff seeks the remedies described in Paragraph 23 of Plaintiff's Complaint. Except
28 as so expressly admitted, Defendant denies each and every allegation contained in

1 Paragraph 23 of the Complaint and denies that Plaintiff has suffered any damages or is
2 entitled to any remedies or relief whatsoever.

3 24. In answering Paragraph 24 of Plaintiff's Complaint, Defendant admits that
4 Plaintiff seeks the remedies described in Paragraph 24 of Plaintiff's Complaint. Except
5 as so expressly admitted, Defendant denies each and every allegation contained in
6 Paragraph 24 of the Complaint and denies that Plaintiff has suffered any damages or is
7 entitled to any remedies or relief whatsoever.

8 **THIRD CAUSE OF ACTION:**
9 **VIOLATION OF CALIFORNIA GOVERNMENT CODE §11135**
10 **DISCRIMINATION UNDER PROGRAM RECEIVING**
11 **FINANCIAL ASSISTANCE FROM THE STATE**

12 25. In answering Paragraph 25 of Plaintiff's Complaint, Defendant herein
13 incorporates its answers to Paragraphs 1 through 24 of the Complaint.

14 26. In answering Paragraph 26 of Plaintiff's Complaint, Defendant admits that it
15 receives state, federal, and other funding for various capital improvement projects and
16 operations. Except as so expressly admitted, Defendant denies each and every
17 allegation contained in Paragraph 26 of the Complaint.

18 27. In answering Paragraph 27 of Plaintiff's Complaint, Defendant neither
19 admits nor denies the allegations contained in Paragraph 27 on the basis that such
20 allegations are legal conclusions to which no answer is required. To the extent that an
21 answer is required, Defendant admits the allegations contained in this paragraph only to
22 the extent the language accurately quotes particular statutes, regulations, administrative
23 rules, and case authorities in their full and proper context. Except as so expressly
24 admitted, Defendant denies each and every allegation contained in Paragraph 27 of the
25 Complaint.

26 28. In answering Paragraph 28 of Plaintiff's Complaint, Defendant admits that
27 Plaintiff seeks the remedies described in Paragraph 28 of Plaintiff's Complaint. Except
28 as so expressly admitted, Defendant denies each and every allegation contained in

1 Paragraph 24 of the Complaint and denies that Plaintiff has suffered any damages or is
2 entitled to any remedies or relief whatsoever.

3 **FOURTH CAUSE OF ACTION:**
4 **VIOLATION OF CALIFORNIA GOVERNMENT CODE §4450 ET SEQ.**

5 29. In answering Paragraph 29 of Plaintiff's Complaint, Defendant herein
6 incorporates its answers to Paragraphs 1 through 28 of the Complaint.

7 30. In answering Paragraph 30 of Plaintiff's Complaint, Defendant neither
8 admits nor denies the allegations contained in Paragraph 30 on the basis that such
9 allegations are legal conclusions to which no answer is required, and the paragraph is
10 vague, ambiguous, and unintelligible. To the extent that an answer is required,
11 Defendant denies each and every allegation contained in Paragraph 30 of the
12 Complaint.

13 31. In answering Paragraph 31 of Plaintiff's Complaint, Defendant admits that
14 Plaintiff seeks the remedies described in Paragraph 31 of Plaintiff's Complaint. Except
15 as so expressly admitted, Defendant denies each and every allegation contained in
16 Paragraph 31 of the Complaint and denies that Plaintiff has suffered any damages or is
17 entitled to any remedies or relief whatsoever.

18 **FIFTH CAUSE OF ACTION:**
19 **VIOLATION OF CALIFORNIA CIVIL CODE §§54 AND 54.1**

20 32. In answering Paragraph 32 of Plaintiff's Complaint, Defendant herein
21 incorporates its answers to Paragraphs 1 through 31 of the Complaint.

22 33. In answering Paragraph 33 of Plaintiff's Complaint, Defendant neither
23 admits nor denies the allegations contained in Paragraph 33 on the basis that such
24 allegations are legal conclusions to which no answer is required. To the extent that an
25 answer is required, Defendant admits the allegations contained in this paragraph only to
26 the extent the language accurately sets forth particular statutes, regulations,
27 administrative rules, and case authorities in their full and proper context. Except as so
28

1 expressly admitted, Defendant denies each and every allegation contained in Paragraph
2 33 of the Complaint.

3 34. In answering Paragraph 34 of Plaintiff's Complaint, Defendant neither
4 admits nor denies the allegations contained in Paragraph 34 on the basis that such
5 allegations are legal conclusions to which no answer is required. To the extent that an
6 answer is required, Defendant admits the allegations contained in this paragraph only to
7 the extent the language accurately quotes particular statutes, regulations, administrative
8 rules, and case authorities in their full and proper context. Except as so expressly
9 admitted, Defendant denies each and every allegation contained in Paragraph 34 of the
10 Complaint.

11 35. In answering Paragraph 35 of Plaintiff's Complaint, Defendant neither
12 admits nor denies the allegations contained in Paragraph 35 on the basis that such
13 allegations are legal conclusions to which no answer is required. To the extent that an
14 answer is required, Defendant admits the allegations contained in this paragraph only to
15 the extent the language accurately quotes particular statutes, regulations, administrative
16 rules, and case authorities in their full and proper context. Except as so expressly
17 admitted, Defendant denies each and every allegation contained in Paragraph 35 of the
18 Complaint.

19 36. In answering Paragraph 36 of Plaintiff's Complaint, Defendant neither
20 admits nor denies the allegations contained in Paragraph 36 on the basis that such
21 allegations are legal conclusions to which no answer is required. To the extent that an
22 answer is required, Defendant admits the allegations contained in this paragraph only to
23 the extent the language accurately sets forth particular statutes, regulations,
24 administrative rules, and case authorities in their full and proper context. Except as so
25 expressly admitted, Defendant denies each and every allegation contained in Paragraph
26 36 of the Complaint.

27 37. In answering Paragraph 37 of Plaintiff's Complaint, Defendant neither
28 admits nor denies the allegations contained in Paragraph 37 on the basis that such

1 allegations are legal conclusions to which no answer is required. To the extent that an
2 answer is required, Defendant admits the allegations contained in this paragraph only to
3 the extent the language accurately sets forth particular statutes, regulations,
4 administrative rules, and case authorities in their full and proper context. Except as so
5 expressly admitted, Defendant denies each and every allegation contained in Paragraph
6 37 of the Complaint.

7 38. In answering Paragraph 38 of Plaintiff's Complaint, Defendant denies each
8 and every allegation contained in Paragraph 38 of the Complaint.

9 39. In answering Paragraph 39 of Plaintiff's Complaint, Defendant admits that
10 Plaintiff seeks the remedies described in Paragraph 39 of Plaintiff's Complaint. Except
11 as so expressly admitted, Defendant denies each and every allegation contained in
12 Paragraph 39 of the Complaint and denies that Plaintiff has suffered any damages or is
13 entitled to any remedies or relief whatsoever.

14 **SEPARATE DEFENSES**

15 Defendant hereby asserts the following defenses to Plaintiff's claims for relief:

16 **FIRST SEPARATE DEFENSE**

17 Defendant alleges, on information and belief, that Plaintiff's claims, and each of
18 them, are barred, in whole or in part, because the Complaint, and each purported cause
19 of action therein, fails to state a claim upon which relief can be granted.

20 **SECOND SEPARATE DEFENSE**

21 Defendant alleges, on information and belief, that Plaintiff lacks standing to assert
22 a claim for denial of accessible features in violation of California Government Code
23 Section 4450 *et seq.*, because there is no private right of action thereunder.

24 **THIRD SEPARATE DEFENSE**

25 Defendant alleges, on information and belief, that Plaintiff's claims, and each of
26 them, are barred, in whole or in part, by the applicable statute of limitations including,
27 without limitation, California Code of Civil Procedure Sections 338, 342, and 343 and
28 Government Code Section 945.6. Because the Americans with Disabilities Act does not

1 contain a specific statute of limitations, the most appropriate state statute of limitations
2 applies. See *Schoenfield v. City of Carlsbad*, 978 F.Supp. 1329, 1332-33 (S.D. Cal.
3 1997) (citing *Wilson v. Garela*, 471 U.S. 261 (1985)).

4 **FOURTH SEPARATE DEFENSE**

5 Defendant alleges, on information and belief, that Plaintiff's claim, and each of
6 them, are barred in whole, or in part, because she has failed to make reasonable efforts
7 to mitigate damages, if any. Defendant is entitled to have any sums to which Plaintiff is
8 entitled, if any, reduced by said amount as Plaintiff reasonably could have mitigated,
9 minimized, or avoided.

10 **FIFTH SEPARATE DEFENSE**

11 Defendant alleges, on information and belief, that Punitive damages cannot be
12 awarded against Defendant because it is a public entity.

13 **SIXTH SEPARATE DEFENSE**

14 Defendant alleges, on information and belief, that to the extent any employee or
15 agent of Defendant is shown to have acted outside the course of his or her duties,
16 Defendant may not be held liable for such acts.

17 **SEVENTH SEPARATE DEFENSE**

18 Defendant alleges, on information and belief, that it provides persons of all
19 abilities meaningful access to its programs and services.

20 **EIGHTH SEPARATE DEFENSE**

21 Defendant alleges, on information and belief, that the modifications and
22 alterations to Defendant's services requested by Plaintiff would fundamentally alter the
23 nature of the services.

24 **NINTH SEPARATE DEFENSE**

25 Defendant alleges, on information and belief, that the modifications and
26 alterations to Defendant's services requested by Plaintiff would cause an undue
27 hardship on Defendant and the passengers it serves.

TENTH SEPARATE DEFENSE

Defendant alleges, on information and belief, that the modifications and alterations to Defendant's services requested by Plaintiff would create a direct threat of harm to Defendant's passengers and employees.

ELEVENTH SEPARATE DEFENSE

Defendant alleges, on information and belief, that removal of the alleged architectural barriers is not readily achievable.

TWELFTH SEPARATE DEFENSE

Defendant alleges, on information and belief, that no federal or other regulatory body has adopted accessibility regulations with respect to the modifications and alterations to Defendant's services requested by Plaintiff.

THIRTEENTH SEPARATE DEFENSE

Defendant alleges, on information and belief, that Plaintiff's claims, and each of them, are barred, in whole or in part, because all actions taken with respect to Plaintiff were for legitimate, nondiscriminatory reasons.

FOURTEENTH SEPARATE DEFENSE

Defendant alleges, on information and belief, that the discriminatory conduct alleged by Plaintiff, if any, was not intentional.

FIFTEENTH SEPARATE DEFENSE

Defendant alleges, on information and belief, that all alleged conduct and activity of Defendant conformed to statutes, governmental regulations, and industry standards, if any, existing at the time alleged in the Complaint.

SIXTEENTH SEPARATE DEFENSE

Defendant alleges, on information and belief, that any and all injuries or damages claimed by Plaintiff were caused by risks of which Plaintiff was aware or reasonably should have been aware and which Plaintiff reasonably and voluntarily assumed.

SEVENTEENTH SEPARATE DEFENSE

Defendant alleges, on information and belief, that Plaintiff by her own conduct has

1 waived any claims she may have against Defendant arising from the incidents asserted
2 in her Complaint.

3 **EIGHTEENTH SEPARATE DEFENSE**

4 Defendant alleges, on information and belief, that Plaintiff is estopped by her own
5 conduct from asserting any and all claims she may have against the Defendant arising
6 from the transactions and occurrences set forth in the Complaint.

7 **NINETEENTH SEPARATE DEFENSE**

8 Defendant alleges, on information and belief, that Plaintiff's claims are barred by
9 the equitable doctrine of unclean hands.

10 **TWENTIETH SEPARATE DEFENSE**

11 Defendant alleges, on information and belief, that Plaintiff's claims are barred by
12 the equitable doctrine of laches.

13 **TWENTY-FIRST SEPARATE DEFENSE**

14 Defendant alleges, on information and belief, that Plaintiff's claims are barred
15 because Defendant is immune to suit in this court pursuant to the Eleventh Amendment
16 of the Constitution of the United States.

17 **TWENTY-SECOND SEPARATE DEFENSE**

18 Because Plaintiff's Complaint is vague, ambiguous, and written in conclusory
19 terms, Defendant cannot fully anticipate all legal defenses that may be applicable to this
20 action. Accordingly, Defendant reserves the right to assert additional legal defenses to
21 the extent such defenses are applicable.

22 WHEREFORE, Golden Gate Bridge, Highway and Transportation District prays
23 as follows:

- 24 1. That Plaintiff take nothing by this action;
25 2. That judgment be entered in Golden Gate Bridge, Highway and
26 Transportation District's favor; and

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2 3. That Golden Gate Bridge, Highway and Transportation District
3 recover its costs and attorneys' fees in this proceeding.

4 DATED: March 24, 2008

HANSON BRIDGETT LLP

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6 By: /s/
7 KURT A. FRANKLIN
8 Attorneys for Defendant
9 GOLDEN GATE BRIDGE, HIGHWAY,
10 AND TRANSPORTATION DISTRICT
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